XII-189 / (Jail)
C. J. P. R. 11/94/2,000

CF0000060375

C.A. 2386/97

(2)

APPEAL OF PRISONER

Division Bench (Criminal)

No. 6176 Name अमृतलाल s/o डेलो

Father's name दुर्ग साहू साकिन कोराडहा थाना पोंडगी

Residence पि.वा. जिला बिलासपुर (म.प्र.) Age 27 वर्ष

Sentenced to आजीवन कारावास On 11-9-97

Under section 302 भा.दं.वि. by मान. अप्र. सत्र न्यायालय पोंडगी जिला बिलासपुर (म.प्र.)

S.T. No. - 313/95

It is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1 Date of Application for copy of Judgement .....

2 Date on which copy received .....

3 Date on which Appeal sent .....

4 Whether the prisoner wishes to be represented or not – Yes / No

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No. 6176 Name अमृत s/o दुर्ग साहू

Confined in केन्द्रीय Jail रायपुर (म.प्र.)

No. 357 सिविल/97 Dated 20/10/1997

Forwarded to the ~~CHIEF JUDICIAL MAGISTRATE~~ मान. अति. पुलिस अधीक्षक महोदय. मान. उच्च न्याया. म.प्र. जबलपुर

togather which a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

संलग्न - S.T. No - 313/95 की सत्यापित प्रतिलिपी।

Superintendent
Superintendent,
Central Jail, Raipur (M.P.)

Date of receipt in ..... office .....

Date of receipt record to accompany the .....

Memo of Appeal to the Appellate court .....

No ..... Dated 199

Forwarded to the .....

Registration No. 752

Date of receipt in Appellate Court .....

Registry of Madhya Pradesh
JABALPUR
17 NOV 1997
Receipt Clerk
High Court, Jabalpur.

(P. T. O.)

XI-HC-78

(13)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... Cr.A. No. 2386/97 ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: HON'BLE SHRI L.C.BHADOO
& HON'BLE SHRI DHIRENDRA MISHRA, JJ

CRIMINAL APPEAL NO. 2386 of 1997

Appellant : Amritlal @ Dolki

Vs.

Respondent : State of Madhya Pradesh

Shri V.D.Bajpai, Sr. Advocate with Shri R.K.Tiwari, learned counsel for the appellant.

Shri U.N.S. Deo, learned Additional Public Prosecutor with Shri M.P.S. Bhatia, learned P.L. for the respondent/State.

ORAL JUDGMENT
(21.04.2006)

L.C.Bhadoo, J

By this appeal under Section 374(2) of the Criminal Procedure Code, the accused/appellant has questioned the legality, propriety and correctness of the judgment of conviction and order of sentence dated 11.09.97 passed by learned Additional Sessions Judge, Janjgir, District Bilaspur in S.T. No. 313/95 whereby the learned Additional Sessions Judge after holding the accused/appellant guilty for the commission of offence under Section 302 of the IPC for committing the murder of one Phool Bai, sentenced him to undergo imprisonment for life.

2. Case of the prosecution, in brief, is that P.W.-1 Mehttar Lal lodged a report Ex.P-1 in the police station Janjgir on 11.06.95 at about 7.00 a.m. to the effect that a day before thereto, at about 10.00 p.m., he went for thrashing

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....Cr.A. No. 2386/17 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

paddy leaving behind his wife Phool Bai and daughter in law Parvati Bai at the residence. When he was busy in thrashing the paddy, wife of Mohan raised screams and said that there is commotion towards his house on which he rushed to his house and saw that his wife Phool Bai was lying dead on the cot and his daughter in law Parvati Bai was weeping. On enquiry, Parvati Bai disclosed that Amritlal Sarthi came and demanded Tobacco and lime on which Phool Bai replied that there is no tobacco and lime whereupon he assaulted Phool Bai with pick-axe on her head. Receiving this report, SHO of police station Janjgir registered the crime No. 296/95 for the commission of offence under Section 302 of the IPC. Merg Intimation P-2 was recorded. He left for the scene of occurrence and got prepared site plan P-3 by the Halka Patwari. He took into possession blood stained soil and plain soil from the place of occurrence. After giving notice to the panchas, the Investigating Officer prepared the inquest report P-7. Body of Phool Bai was sent for post mortem examination to the Primary Health Centre, Janjgir where Dr. Arvind Dwivedi conducted the post mortem on the body of Phool Bai and prepared post mortem P-6 in which he opined that the death occurred due to shock as a result of acute, extensive head injury. Mode of death is homicidal. The pick axe was sent for doctor's opinion and he gave his opinion P-10. On bush shirt of the accused/appellant was taken into possession under P-12. The Investigating Officer prepared the site plan Ex.P-21. The recovered articles were sent for examination to the Forensic Science Laboratory, Sagar from where report P-25 was received. After completion of the investigation, the charge sheet was filed in the Court of Judicial Magistrate First Class, Janjgir who in turn committed the case to the Sessions Judge,

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....Cr.A.No.....2386/97 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Bilaspur from where the learned Additional Sessions Judge, Bilaspur received the case on transfer for trial.	
3.	The prosecution in order to establish the crime against the accused/appellant examined fifteen witnesses. Statement of the accused/appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the prosecution evidence appearing against him.	
4.	Learned Additional Sessions Judge after hearing the counsel for the parties, convicted and sentenced the accused/appellant as mentioned in paragraph one of this judgment.	
5.	We have heard Shri V. D. Bajpai, Sr. Advocate with Shri R. K. Tiwari on behalf of the accused/appellant and Shri U. N. S. Deo Additional Public Prosecutor with Shri M.P.S. Bhatia, learned P.L. for the State.	
6.	Homicidal death of Phool Bai is not is dispute.	
7.	As far as the involvement of accused/appellant Amritlal in committing the murder of Phool Bai is concerned, P.W.-10 Parvati Bai, the daughter in law of deceased Phool Bai who was present at the time of the incident, has stated that in the night at about 10.00 p.m. after taking their meals, she and Phool Bai were going to sleep, her father in law had gone for thrashing paddy and her husband who was working in some truck as a labourer was not in the house, at that time accused/appellant Amritlal came into their house and demanded tobacco and lime from her mother in law and when her mother in law replied that there is no tobacco and lime,	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....Cr.A.No.2386/97 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

he returned. Thereafter, the accused/appellant came holding the pick axe and started assaulting her mother in law who was sleeping in the cot. At this, she raised screams. The accused/appellant assaulted four-five times and ran towards the house of Shanti Bai. Thereafter she called her father in law Mehttar Lal.

8. In the cross examination of this witness, the defence has not been able to elicit any circumstance which makes the evidence of this witness untrustworthy or unreliable. Her presence at 10.00 p.m. in the night at the house was but natural.

9. P.W.-1 Mehttar Lal has corroborated the evidence of P.W.-10 Parvati Bai who has stated that at the relevant time he went for thrashing paddy and his daughter in law came and informed him. He immediately came to the house and saw his wife Phool Bai lying dead and the matter was reported in the police station.

10. From the above evidence, it is established that the accused/appellant assaulted the deceased with a pick axe as a result of which Phool Bai received eight lacerated wounds and there was compound fracture of skull and the ocular evidence is corroborated by the medical evidence as such it is established that the accused/appellant committed the murder of Phool Bai by attacking with a pick axe.

11. Thus, the judgment of the trial Court is based on the legal evidence and we do not find any illegality or infirmity in the judgment of the trial Court.

12. In the result, the appeal being devoid of merits is liable to be dismissed and it is accordingly dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Dhirendra Mishra
Judge

SP/FS/2005 - 20,